

The Department's Office of General Council has provided the Office of Manufactured Housing with a response to a question asked by a Maryland code official. See the question and response below. This answer applies to all states and territories in the HUD-Administered Manufactured Home Installation Program.

Question:

Where can it be found in the regulations for counties to not issue permits and or certificates of occupancy if the installation was not performed by a licensed installer?

Answer:

The Installation regulations do not specifically contain language that addresses whether a local authority having jurisdiction (LAHJ) can issue permits or certificates of occupancy to an unlicensed installer. However, under federal law, the Department is given exclusive authority to regulate manufactured home construction and safety standards, which include installation standards, and in such areas, the Department's regulations are given supremacy over State and local laws and requirements through the Manufactured Home Construction and Safety Standards Act ("Act"), 42 USC 5403, which provides:

(d) SUPREMACY OF FEDERAL STANDARDS

Whenever a Federal manufactured home construction and safety standard established under this chapter is in effect, no State or political subdivision of a State shall have any authority either to establish, or to continue in effect, with respect to any manufactured home covered, any standard regarding the construction or safety applicable to the same aspect of performance of such manufactured home which is not identical to the Federal manufactured home construction and safety standard. Federal preemption under this subsection shall be broadly and liberally construed to ensure that disparate State or local requirements or standards do not affect the uniformity and comprehensiveness of the standards promulgated under this section nor the Federal superintendence of the manufactured housing industry as established by this chapter.

As of November 1, 2015, HUD's regulations require that 1) all Manufactured Home installers be licensed by HUD unless performing home installation in states that have a qualifying installation program of their own, which Maryland and twelve (12) other states, do not, and 2) that the "installation" of a Manufactured Home be performed by a licensed installer. *See* 24 CFR § 3286.105. Pursuant to 24 CFR § 3286.3, "installation means: completion of work done specified in 24 CFR § 3286.505 to stabilize, support, anchor, and close up a manufactured home and to join sections of a multi-section manufactured home, when any such work is governed by the federal installation standards in part 3285 of this chapter..."

Pursuant to HUD's regulations, the issuance of the certificate of occupancy by a local jurisdiction is to occur in connection with the installation of the manufactured home by a licensed installer. *See* 24 CFR § 3286.115. The issuance of a certificate of occupancy on a manufactured home purporting to be installed by an unlicensed installer would be inconsistent with Federal Regulations. Unless properly installed by a licensed manufactured home installer, the manufactured home will not be deemed "installed" in accordance with HUD's regulations. *See* 24 CFR § 3286.115 (defining the "date of installation" as the date the licensed installer has certified that all required inspections have been completed, all utilities are

connected, and the manufactured home is ready for occupancy as established, if applicable, by a certificate of occupancy...”).